

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-077-00870R

Parcel No. 060/02193-001-000

Page Morris,
Appellant,

v.

Polk County Board of Review,
Appellee.

Introduction

This appeal came on for consideration before the Property Assessment Appeal Board (PAAB) on December 18, 2015. Page Morris was self-represented and requested a written consideration. Assistant County Attorney Christina Gonzalez represented the Polk County Board of Review.

Morris is the owner of a residential property located at 1611 Searle Street, Des Moines. The one-story home, built in 1950, has 1111 square feet of above-grade finish; a full basement with 200 square feet of average quality finish; an enclosed porch; and a two-car detached garage, which was built in 1973. The site is 0.258 acres.

The property's January 1, 2015, assessment was \$88,900, allocated as \$13,800 in land value, \$75,100 in improvement value. Morris' protest to the Board of Review claimed the assessment was not equitable as compared with assessments of other like property and that the property was assessed for more than the value authorized by law under Iowa Code sections 441.37(1)(a)(1)(a-b). The Board of Review denied the petition.

Morris then appealed to PAAB. She asserts the property's correct fair market value is \$80,500.

Findings of Fact

On her Board of Review petition, Morris listed four properties she considered as equity comparables, which are summarized in the following chart.

	2015 Assessed Value	Gross Living Area (GLA)	Basement Finish	Grade	AV/SP
Subject	\$88,900	1111	200 Avg	4-05	\$80.02
1 - 1917 E 24th St	\$84,100	1045	None	4+05	\$80.48
2 - 2015 E 24th St	\$87,100	1110	350 Low	4+00	\$78.47
3 - 2028 E 23rd St	\$66,600	864	None	4-05	\$77.08
4 - 1503 E 22nd St	\$82,700	955	None	4+00	\$86.60

Morris did not provide any information or analysis of the comparables. The Board of Review notes that while the properties are in close proximity to the subject, there are differences between them, which explain their different assessments. (Ex. A). For example, it notes three of the properties do not have any basement finish; three lack central air conditioning; and none have a second full bath like the subject. (Ex. A). All of these differences would result in a difference in assessed value.

Additionally, none of these properties sold recently nor was an opinion of market value established for each property to determine an assessment/sales ratio.

Morris did not provide any other evidence of the property's fair market value such as an appraisal, comparable sales, or a comprehensive market analysis.

The Board of Review's certified record also included a summary of five properties that were adjusted for cost differences, which the Board of Review presumably relied on in its decision.

Address	Sale Price	Sale Date	Adjusted Sale Price
2221 E 24th St	\$82,300	Sep-14	\$94,900
2105 Searle St	\$80,000	Jun-13	\$92,400
2224 Lay St	\$94,000	Jun-14	\$90,800
2122 E 24th St	\$87,400	Apr-14	\$92,700
1905 Searle St	\$79,900	Sep-13	\$99,400

All of the properties are one-story homes built between 1945 and 1962. The subject's assessed value of \$88,900 is within the unadjusted range of \$80,000 to \$94,000; and below the adjusted range of \$90,800 to \$99,400.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than

other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires residential assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

Morris offered four properties she considered comparable to hers for an equity analysis. However, none recently sold nor did she provide an opinion of their market value; therefore, there is insufficient evidence to determine an assessment/sales ratio using these properties. Moreover, Morris did not assert that the Assessor failed to uniformly apply an assessing method to similarly situated or comparable properties. For these reasons, she failed to show her property is inequitably assessed as compared to like properties.

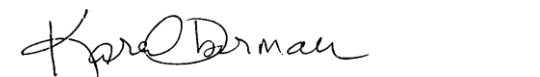
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Morris provided no evidence to establish the subject property was over-assessed.

Order

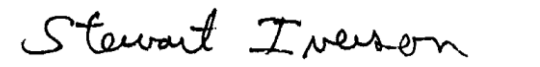
IT IS THEREFORE ORDERED that the Polk County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

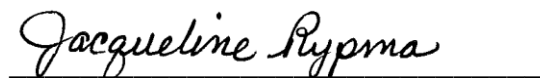
Dated this 22nd day of January, 2016.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:

Page Morris

Christina Gonzalez